UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,976	11/04/2003	David L. Rhodes	486.1003US	4497

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EXAMINER
OCHOA, JUAN CARLOS

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2123	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/700,976	RHODES, DAVID L.
	Examiner	Art Unit	
	Juan C. Ochoa	2123	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>31 October 2007</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-16,18-27 and 31-34* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-16,18-27 and 31-34* is/are rejected.

7) ☐ Claim(s) *7* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____..

DETAILED ACTION

1.   The amendment filed 10/31/07 has been received and considered. Claims 1–16,

18–27, and 31–34 are presented for examination.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on *** has

been entered.

Claim Interpretation

3.   Office personnel are to give claims their "broadest reasonable interpretation" in

light of the supporting disclosure. In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d

1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited

in the claim are not read into the claim. In re Prater, 415 F.2d 1393, 1404-05, 162

USPQ 541,550-551(CCPA 1969). See *also In re Zletz, 893 F.2d 319,321-22, 13

USPQ2d 1320, 1322(Fed. Cir. 1989) ("During patent examination the pending claims

must be interpreted as broadly as their terms reasonably allow").... The reason is simply

that during patent prosecution when claims can be amended, ambiguities should be

recognized, scope and breadth of language explored, and clarification imposed.... An

essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.

4.   Claims recite "network application codes". The specification defines "network application codes" as "application level codes (such as FTP or TELNET), etc" (see page 2, [002], lines 6–7); "network application codes (i.e., those that communicate over a network)" (see page 3, [004], lines 3–4); and "networked application code (herein called simply application code)" (see page 4, [006], lines 4–5). The claims reciting "network application codes" were interpreted according to these definitions.

Specification

5.   The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code, see page 8, line 6. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code. See MPEP § 608.01.

Claim Objections

6.   Claim 7 is objected to because of the following informalities:

7.   Claim 7 line 2 includes the misspelled term "utilize". Examiner interprets as "utilizes" for examination purposes.

8.   Appropriate correction is required.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating obviousness or nonobviousness.

11.   Claims 1–16, 18–27, and 31–34 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Maurer, Max M., (Maurer hereinafter), U.S. Patent 7,006,963, taken

in view of Bleier et al. (Bleier hereinafter), U.S. Patent 6,832,184.

12.   As to claim 1, Maurer discloses a method for virtually simulating actual

networked applications within a network simulation, comprising the steps of: providing a

networked application code and a client interface (see "networked application code" as

"Lotus Notes" in col. 8, lines 31–47) which communicates with the network application

code; providing a network simulator that simulates a network of communicating nodes;

providing a server that interfaces to the network simulator, the server comprising

functionality for establishment of a bidirectional mapping of communications of said

networked application code to a simulated node in the network simulator, the client

interface being aware of the server and communicating with the server over a network, the network simulator being able to interoperate with the server (see col. 10, lines 1–53) such that communication to the networked application code from the server appears to originate from the simulated node to which the networked application code is mapped (see "By enabling simulation of clients each having a unique identity, it is possible to provide a simulation that is indistinguishable from real client traffic" in col. 7, lines 15–20 and col. 7, line 66 to col. 8, line 2); and modifying, via the one or more client interfaces and the server, the network application code by removing or inserting messages to or from simulated nodes (see col. 6, lines 45–63).

13.   While Maurer discloses a networked application code and a client interface, Maurer fails to **specifically** disclose a client interface which communicates with the network application code.

14.   Bleier discloses a client interface which communicates with the network application code (see col. 7, lines 53–61).

15.   Maurer and Bleier are analogous art because they are both related to computer networks simulation.

16.   Therefore, it would have been obvious to one of ordinary skill in this art at the time of invention by applicant to utilize the simulation tool of Bleier in the computer system of Maurer because Bleier simulates multiple clients in a client/server environment (see col. 6, lines 65–67), and as a result, Bleier reports the following improvements over his prior art: a scriptable simulator able to check responses, a

simulator centrally and dynamicall3y controllable, and simulated clients

indistinguishable from real clients (see col. 6, lines 44–59).

17.   As to claim 2, Maurer discloses a method for virtually simulating actual

networked applications within a network simulation, comprising the steps of: initiating a

server to interface to a network simulator; initiating a client interface to interface with the

server over a network, bridging the networked application code (see "networked

application code" as "Lotus Notes" in col. 8, lines 31–47) via the client interface so that

the network application code can communicate with the server (see col. 10, lines 1–53);

mapping the communications of the networked application code to a simulated node in

the simulator, communication from the networked application code now appearing to

originate from the simulated node (see "By enabling simulation of clients each having a

unique identity, it is possible to provide a simulation that is indistinguishable from real

client traffic" in col. 7, lines 15–20 and col. 7, line 66 to col. 8, line 2); and insertion of

and extraction of messages or packets from or to application code to simulated node via

the one or more clients and servers (see col. 7, lines 23–25 and/or col. 11, lines 10–27).

Bleier discloses the client interface communicating with a networked application code

(see col. 7, lines 53–61).

18.   As to claim 3, Maurer discloses a method wherein the step of initiating a server

further comprises the step of establishing bidirectional mapping of the networked

application code to the simulated nodes in the network simulator (see col. 6, lines 45–

54).

19.   As to claim 4, Maurer discloses a method wherein the network simulator is IP

based (see col. 11, lines 10–18).

20.   As to claim 5, Maurer discloses a method wherein the network simulator further

comprises an upper layer protocol (see col. 11, lines 10–18).

21.   As to claim 6, Maurer discloses a method wherein the protocol is selected from

the group consisting of TCP (see col. 11, lines 10–18) and UDP upper layer protocols.

22.   As to claim 7, Maurer discloses a method wherein the application codes and

network application code further utilize a communication styles and wherein

communication style is selected from the group consisting of point-to-point, anycast,

multicast and broadcast (see "point-to-point" in col. 2, lines 20–37 and col. 6, lines 16–

19).

23.   As to claim 8, Bleier discloses a method wherein the network simulator

comprises a plurality of network simulators (see col. 7, lines 9–15).

24.   As to claim 9, Bleier discloses a method wherein the server comprises a plurality

of servers (see col. 7, lines 9–15).

25.   As to claim 10, Maurer discloses a method wherein the mapping of application

code to the simulated node is dynamic (see col. 12, lines 1–5).

26.   As to claim 11, Maurer discloses a method wherein the network simulator

executes in real-time (see col. 6, lines 45–54).

27.   As to claim 12, Bleier discloses a method wherein the execution time of the

network simulator is configurable (see col. 11, lines 53–57).

28.   As to claim 13, Maurer discloses a method wherein the client interface and the

server are implemented on separate hardware (see Fig. 13).

29.   As to claim 14, Bleier discloses a method wherein the networked application

code is executed in parallel over a distributed system (see col. 7, lines 53–61).

30.   As to claim 15, Maurer discloses a method wherein the network simulator is IP

based (see col. 11, lines 10–18).

31.   As to claim 16, Maurer discloses a method wherein the network simulator further

comprises a protocol (see col. 11, lines 10–18).

32.   As to claim 18, Maurer discloses a method wherein the application code further

utilizes a communication style, and wherein the communication style is selected from

the group consisting of point-to-point, anycast, multicast and broadcast (see "point-to-

point" in col. 2, lines 20–37 and col. 6, lines 16–19).

33.   As to claim 19, Bleier discloses a method wherein the network simulator

comprises a plurality of network simulators (see col. 7, lines 9–15).

34.   As to claim 20, Bleier discloses a method wherein the one or more servers

comprise a plurality of servers (see col. 7, lines 9–15).

35.   As to claim 21, Maurer discloses a method wherein the mapping of application

code to simulated network node is dynamic (see col. 12, lines 1–5).

36.   As to claim 22, Maurer discloses a method wherein the network simulator

executes in real-time (see col. 6, lines 45–54).

37.   As to claim 23, Bleier discloses a method wherein the execution time of the

network simulator is configurable (see col. 11, lines 53–57).

38.   As to claim 24, Maurer discloses a method wherein the client interface and the

server are implemented on separate hardware (see Fig. 13).

39.   As to claim 25, Bleier discloses a method wherein the networked application

code is executed in parallel over a distributed system (see col. 7, lines 53–61).

40.   As to claim 26, Maurer discloses a method wherein the server is a plug in to the

simulator (see Abstract, lines 9–14 and col. 6, lines 20–29).

41.   As to claim 27, Maurer discloses a method wherein the server is a plug in to the

simulator (see Abstract, lines 9–14 and col. 6, lines 20–29).

42.   As to claim 31, Maurer discloses a method wherein the client interface includes a

plurality of client interfaces and the networked application code includes a plurality of

networked application codes, each client interface associated-with at least one of the

plurality of networked application codes (see col. 6, line 65 to col. 7, line 1).

43.   As to claim 32, Maurer discloses a method wherein the client interface includes a

plurality of client interfaces and the networked application code includes a plurality of

networked application codes, each client interface associated with at least one of the

plurality of networked application codes (see col. 6, line 65 to col. 7, line 1).

44.   As to claim 33, Maurer discloses a computer system for virtually simulating actual

networked applications within a network simulation comprising: a plurality of clients,

each client having a client interface (see col. 8, lines 31–47); a network simulator

including a plurality of simulated nodes; a server, the server having functionality for

interfacing to the network simulator; and wherein each client communicates with the

server over a network, and wherein each client executes the networked application

code and the client interface so that the networked application code can communicate

with the server (see col. 10, lines 1–53), and wherein the client interface maps the

networked application code to one of the simulated nodes so that communication from

the networked application code now appears to originate from the simulated node (see

"By enabling simulation of clients each having a unique identity, it is possible to provide

a simulation that is indistinguishable from real client traffic" in col. 7, lines 15–20 and

col. 7, line 66 to col. 8, line 2), and inserts and extracts messages or packets from the

networked application code (see col. 7, lines 23–25 and/or col. 11, lines 10–27). Bleier

discloses the client interface communicating with an associated networked application

code executing on the client (see col. 7, lines 53–61).

45.   As to claim 34, Maurer discloses a system wherein server has functionality for

providing message or packet transfer among simulated nodes and/or networked

application codes (see col. 10, lines 1–21).

Response to Arguments

46.   Applicant's arguments filed 10/31/07 have been fully considered, but they are not

persuasive.

47.   Regarding the specification objections, deficiencies remain.

48.   Regarding the claim objections, the amendment corrected all deficiencies and

those objections are withdrawn.

49.   Regarding the rejections under 102 and 103, the amendment circumvented all

rejections and the rejections are withdrawn.
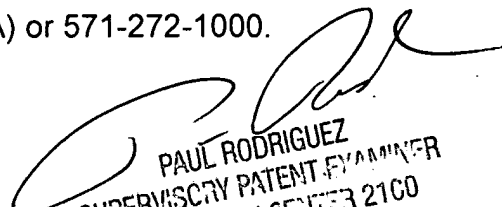
Conclusion

50. Examiner would like to point out that any reference to specific figures, columns

and lines should not be considered limiting in any way, the entire reference is

considered to provide disclosure relating to the claimed invention.

51. Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Juan C. Ochoa whose telephone number is (571) 272-

2625. The examiner can normally be reached on 7:30AM - 4:00 PM.

52. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Paul Rodriguez can be reached on (571) 272-3753. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

53. Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

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*** JO 12/27/07

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